

July 26, 2006 BOS



STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

06CW0430

Zaremba Metropolitan Midlothian, L.L.C.

Midlothian Magisterial District
North of Midlothian Turnpike (State Route 60), and
South of WWII Veterans Memorial HWY (State Route 288)

REQUEST: Board of Supervisors approval of an exception to the requirements of Section 19-232 of the Chesapeake Bay Preservation Ordinance relating to Resource Protection Area Regulations. Specifically, the applicant is requesting an exception to encroach into the Resource Protection Area (RPA) as a result of grading to create buildable areas, roads, parking lots and supporting infrastructure for the proposed lifestyle center project -- Westchester Commons at Watkins Centre. The proposed project complies with the Route 288 Corridor Plan and the rezoning case 06SN0191 approved by the Board on February 22, 2006. Exceptions to the Resource Protection Area Regulations are permitted pursuant to Section 19-235 (b)(2) of the Ordinance.

GENERAL INFORMATION

Developer:

Jeffrey Broderick & Wayne Barber
Zaremba Metropolitan Midlothian, LLC

Location:

The property is located at 15319 Midlothian Turnpike, which is within the Michaux Creek drainage basin, specifically; the project is generally located north of Midlothian Turnpike (State Route 60), and South of WWII Veterans Memorial HWY (State Route 288). Tax ID 717-708-Part of 5080 (Sheet 5).

Existing Zoning:

I-2 with Conditional Use Planned Development (CUPD)

Existing Land Use and Condition of Resource Protection Area:

The project area for the proposed lifestyle center, Westchester Commons at Watkins Centre, is approximately 140 acres. Within the project area, improvements to the property consist of one (1) single-family residence with two (2) outbuildings. The northern portion of the property consists of mixed hardwood forest. The southern portion of the property has been used for nursery plant production. Surrounding parcels are currently residential, farmland and wooded.

There are approximately 11.43 acres of existing RPA located on-site. The majority of the area within the RPA consists of mature hardwood forest. The mature trees are spaced as they would be in an undisturbed forest with understory growth consisting of immature trees and low-lying shrubs. Approximately 3.7 acres adjacent to Route 288 on the property's northern boundary will remain and be protected during and after construction.

Area of Proposed RPA Encroachment:

The area of the encroachment for this proposed development will impact approximately 7.73 acres of existing RPA. Of this, 7.73 acres of RPA will be converted to the proposed roads, parking lots, and buildings. The remaining 0.59 acres will become open space, parking islands, or landscaped areas.

BACKGROUND

The proposed life-style center is part of the Watkins Centre development, located along Midlothian Turnpike and Route 288, designated as part of the regional employment center in the Route 288 Corridor Plan. The project will create a commercial development that differs from a typical "strip" mall. The applicant proposes to develop the 140-acre parcel to include high-end retail, restaurants, entertainment options, and neighborhood and business services. The design of the project will include an open-air configuration defined by plazas and common areas with an internal focus oriented away from Midlothian Turnpike.

A perennial stream determination concluded that the stream originating on the parcel contains perennial flow. Those stream segments determined to have perennial flow must adhere to the county's Chesapeake Bay Preservation Ordinance (CBPO). Accordingly, the CBPO requirements of the Zoning Ordinance specify that a Resource Protection Area (RPA) buffer be established adjacent to the creek consisting of an undisturbed 100-foot natural vegetative area. In order to meet the zoning, development and site requirements, the applicant has requested an encroachment into the 100-foot RPA buffer to permit the development of the life-style center and necessary infrastructure.

As part of this request, the applicant has submitted, as required for review, an application for exception and a Water Quality Impact Assessment (WQIA). A discussion of both documents follows.

ANALYSIS

- A. To approve a Chesapeake Bay Preservation Ordinance (CBPO) exception request, the Board of Supervisors must determine whether the proposed development is consistent with the spirit and intent of the Ordinance and make a finding based upon the applicant's ability to adequately address the six (6) findings, outlined below, as required by Section 19-235 (b)(1).

The Applicant addressed these findings as part of the application process. The Applicant position can be found attachment Document A.

1. *The requested exception is the minimum necessary to afford relief.*

Staff believes that this requirement has been satisfied. There are currently a number of zoning and development requirements for the proposed retail lifestyle center project. To meet these requirements, a project of this nature requires adequate acreage to support several large retail anchors, dining, and entertainment spaces and associated roadways, parking lots and infrastructure. Several different site designs that complied with the rezoning case were considered. Due to the substantial clearing and grading of the proposed project, all of the options had varying degrees of impact on the environmental resources within the project area. The applicant selected a design that would minimize the project encroachment and provide protection to the 3.7 acres of remaining RPA in the project area.

2. *Granting the exception shall not confer any special privileges upon the applicant that are denied by this division to other property owners who are subject to its provisions and who are similarly situated.*

Most large-scale commercial mixed-use developments will impact environmental resources such as streams and wetlands. The appropriate and necessary steps must be taken to minimize and mitigate for these impacts. Due to the natural topography (high river terrace) and stream geomorphology in this region of the county, similar developments of this nature would have similar impacts on environmental resources. Examples of these impacts are evident in many of the already existing developments along Route 60.

3. *The exception request is in harmony with the purpose and intent of this division and will not result in a substantial detriment to water quality.*

Staff believes that this requirement has been satisfied in that the applicant has agreed to address water quality protection during all phases of development. In addition to addressing specific on-site pollutant concerns, the applicant will conduct enhancement and restoration projects that will provide long-term water quality improvements.

4. *The exception request is not based upon conditions or circumstances that are self-created or self-imposed.*

The proposed exception is requested to comply with the Route 288 Corridor Plan and the textual statement of the approved rezoning case 06SN0191. The retail lifestyle center portion of the regional employment center development must be orientated away from Route 60 to create an internal focus and to avoid typical “strip commercial” characteristics. To meet the textual statement requirements of the rezoning case, a “main street” has been designed for the central portion of the site that is a minimum of 300,000 square feet and incorporates a public gathering area, three restaurants and a cinema. Redesign of the plan would result in the inability to meet the development requirements.

5. *Reasonable and appropriate conditions are imposed, as warranted, that will ensure that the permitted activity will not cause a degradation of water quality.*

The proposed development will meet current CBPO pollutant removal requirements for phosphorus and exceed the minimum standards for Erosion and Sediment Controls. The applicant is proposing to incorporate into the site design multiple stormwater source control measures to reduce typical pollutants found at retail center developments. These measures are to include both structural BMPs for targeted pollutants and non-structural BMPs (i.e. education programs). In addition to these control measures, the applicant is proposing additional water quality enhancements to include other mitigating projects such as re-vegetation to increase stream buffer width and reduce impervious surface, and off-site stream restoration projects.

6. *The request is being made because of the particular physical surroundings, use, shape or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this division is carried out.*

The proposed project site is located along the ridgeline between the Michaux Creek Watershed and the Tomahawk Creek Watershed. The majority of the site drains north to the James River along Michaux Creek. The existing topography of the project site contains steep slopes and valley streams. Routes 288 and 60 currently border the site on two of the three sides. The remaining side of the site will be bordered by the future Watkins Centre Parkway. Given the current physical characteristics, significant grading of the area must occur to meet the requirements of development.

- B. A Water Quality Impact Assessment (WQIA) required pursuant to Section 19-232 (e) prepared by the applicant has been submitted to and approved by the Office Water Quality. The approved document *Westchester Commons at Watkins Centre* can be found on file with the county. A complete description of the mitigation measures is presented on pages 14 to 16 of this document. A summary of those measures can be found in attachment Document B.

RECOMMENDATIONS

Staff finds that the WQIA and the project are consistent with the spirit and intent of the ordinance and the criteria as outlined in Section 19-235 (b)(1) of the Chesterfield County Code for the Board of Supervisors to consider Chesapeake Bay Preservation Ordinance (CBPO) exception requests. Staff, therefore, recommends approval of this request as it pertains to the Westchester Commons at Watkins Centre project only. Furthermore, all other recommendations listed therein shall be incorporated into the site plans for the project, which must then receive final approval by Environmental Engineering. Any changes to the Plan of Development that would cause any deviation from the items listed in the WQIA, either in the form of increased impacts to components of the RPA or omissions of mitigation requirements from the submitted Plan of Development must be reviewed and approved by the Chesterfield County Board of Supervisors.

DOCUMENT A

Applicant's response to the six (6) findings as required by Section 19-235 (b)(1).

REQUEST FOR AN EXCEPTION TO THE REQUIREMENTS
OF THE ZONING ORDINANCE

Westchester Commons at Watkins Centre

Tax ID# 717-708-part of 5080

A. Provide the justification for the proposed exception and a discussion of how each of the following findings are met:

1. The requested exception is the minimum necessary to afford relief.

The requested exception is the minimum necessary to afford relief based on an analysis of specific selection criteria used to identify an appropriate location for a regional employment center with a supporting retail lifestyle center. The proposed development conforms to the Route 288 Corridor Plan which suggests that a lifestyle/entertainment center is appropriate at the northwest quadrant of the Route 288/Midlothian Turnpike interchange. In an alternatives analysis prepared for the subject development by Williamsburg Environmental Group, Inc., the selection criteria for a successful regional employment center included the following:

Growth areas of Chesterfield County

Potential growth regions and infrastructure needed were identified in the Chesterfield County Comprehensive Plan. The most projected growth is located in the Upper Swift Creek region including the Midlothian and Spring Run areas. The proposed development is located in the northwest quadrant of the Route 288/Midlothian Turnpike interchange and subsequently the Midlothian area. The Midlothian area is listed in the Comprehensive Plan for future growth with includes the Route 288 Corridor Plan. Growth in this area is expected to increase at an annual rate of over 9% through the year 2010.

Access to major interchange and existing transportation infrastructure

Locating a retail development next to a regional employment center along a major highway and a thoroughfare road provides convenient shopping, visibility, and potential draw of cars traveling through the area. Route 288 provides an ideal interchange with potential direct access and transportation infrastructure available for the development includes Route 60 and the proposed Watkins Centre Parkway.

Access to existing utility infrastructure

The county gave planned growth areas priority when allocating funds to provide public utilities. The need for appropriate infrastructure eliminated the southwestern region of the County as a potential location for the proposed regional employment center. The Route 288/Midlothian Turnpike interchange has adequate access to existing utility infrastructure. Water, sewer, gas, cable and telephone utility providers have confirmed that capacities are adequate to service the proposed development.

Appropriately sized parcel

A retail lifestyle center that is part of a regional employment center has to have adequate acreage to support various large retail anchors, dining, entertainment, parking, loading areas, open space, access roads, and stormwater management facilities. The alternatives analysis determined a minimum of 150 acres was appropriate. The Route 288/Midlothian Turnpike interchange has appropriate surrounding parcels that could support a minimum of 500 acres for a regional employment center and 150 acres for a retail center.

Reduced or no existing competition

The minimum distance established to allow the County to retain their tax base with existing merchants in other retail areas was four miles. Currently there is very little existing competition from other retailers at the Route 288/Midlothian Turnpike interchange and no high-end retail competition nearby. The proposed retail lifestyle center is four miles from Chesterfield Town Center, nine miles from Commonwealth Center and 11 Miles from Stony Point Fashion Park.

Household income base adequate to support a lifestyle center

The regional employment center is intended to attract companies that employ personnel with higher than average household incomes and large disposable incomes. The supporting retail lifestyle center development is planning to offer high-end shopping opportunities. Recent growth in the Midlothian area has included a large number of higher-income households who often leave Chesterfield County for the upscale shopping opportunities available in Henrico County and the City of Richmond.

Limited environmental constraints

Environmental constraints including threatened and endangered species, historical resources, wetlands, and stream channels were evaluated and the potential impact of a regional employment center was considered. The proposed retail lifestyle development has a few selected areas that pose environmental challenges but less environmental constraints than other parcels available. The environmental constraints for the proposed development were evaluated when designing the layout of the development to minimize impacts where possible.

In addition to the location selection, an onsite alternatives analysis was completed to review all potential layouts. The proposed layout of the lifestyle center was designed to protect a section of the RPA that will remain in place. Retaining walls and reforestation plantings have been designed to avoid impacts to the portion of the RPA that will remain.

2. Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners who are similarly situated.

The requested exception is a result of the existing conditions and topography of the site and the financial feasibility of developing a site that would be supported by lending companies. If the retail lifestyle center was removed from the regional employment center then other sites may be available although this would eliminate a vital component of the regional employment center. Nineteen interchanges were considered for the proposed retail lifestyle center and summarized in the Joint Permit Application alternatives analysis prepared by Williamsburg Environmental Group, Inc. The site selection criteria are the same as those considered for selecting a suitable

location for the regional employment center. The selected Route 288/Midlothian Turnpike interchange had less environmental constraints than the remaining alternative interchanges.

The four quadrants of the Route 288/Midlothian Turnpike interchange were evaluated for suitability for a retail lifestyle center. Locating the retail lifestyle center as proposed allows for greater avoidance and minimization of jurisdictional areas than situating an office space or other portions of the overall development in the chosen quadrant. The location also reduces impacts from the overall regional employment center.

Several alternative layouts were evaluated in an effort to design a retail lifestyle center that conforms to the textual statements of the approved zoning case with the least environmental damage. Many aspects of the design were considered including land design, stormwater design, construction sequencing and implementation. The proposed layout offers avoidance and minimization of impacts to the RPA while constructing a financially feasible retail lifestyle center that would be supported by lending companies.

3. The exception request is in harmony with the purpose and intent of the Chesapeake Bay Preservation requirements of the Zoning Ordinance.

The request complies with the general performance criteria and the requirements of a Major Water Quality Impact Assessment. The proposed development will establish an overall net improvement in the pollutant load removal with the use of Low Impact Development practices which yield a higher phosphorous removal rate in addition to the planned stormwater BMP to meet Chesapeake Bay Preservation removal requirements. A restoration plan is included to replace the vegetation that will be removed from the RPA. Several non-point source pollution practices are planned for this development including educational signs for the bioretention and manufactured BMPs onsite, storm drain markers, signs at dumpsters and roof HVAC systems detailing disposal regulations, and trash maintenance. These practices will provide treatment for nutrients as well as additional typical pollutants found at a retail lifestyle center including oils and greases, trash, and other floatable debris. Stream mitigation projects in Chesterfield County are being evaluated for potential mitigation. The intermittent and perennial tributaries of Michaux Creek located downstream of the proposed development will be restored and replanted for additional water quality benefit.

4. The proposed exception is not based upon conditions or circumstances that are self-created or self-imposed.

The proposed exception is requested to comply with the Route 288 Corridor Plan and the textual statement of the approved rezoning case 06SN0191. The retail lifestyle center portion of the regional employment center development must be orientated away from Route 60 to create an internal focus and to avoid typical "strip commercial" characteristics. To meet the Textual Statement requirements of the rezoning case, a "main street" has been designed for the central portion of the site that is a minimum of 300,000 square feet and incorporates a public gathering area, three restaurants and a cinema. Redesign of the plan would result in the inability to meet the development requirements.

5. Reasonable and appropriate conditions have been imposed that will prevent the allowed activity from causing a degradation of water quality.

The water quality will be protected during and after construction with the use of erosion control designs that are above the minimum standards required as well as pollutant treatment practices that will be incorporated into the site.

In addition to the required nutrient treatment to comply with the Chesapeake Bay Program, several Low Impact Development practices are proposed to improve the pollutant load removal typical of a retail lifestyle center. The practices proposed on site will mitigate several non-point source pollutants including oil and grease, trash, and floatables.

The RPA that will remain onsite will be protected during construction with erosion control measures. The erosion and sediment control narrative is designed to provide additional controls above the Virginia Erosion and Sediment Control requirements. The erosion and sediment control sequence will be multi-phased to provide measures of protection for the perennial stream and RPA as the project progresses and seasons and rainfall potential vary.

6. The request is being made because of the particular physical surroundings, use, shape or topographical conditions of the specific property involved or property adjacent to or within 100 feet of the subject property, or a particular hardship to the owner will occur, as distinguished from a mere inconvenience, if the strict letter of this division is carried out.

The existing physical characteristics and conditions of the location require modification to the topography to provide adequate buildable area while minimizing environmental impacts. The development must be orientated away from Route 60 to create an internal focus and to avoid typical "strip commercial" characteristics. To meet the Textual Statement requirements of the rezoning case, a "main street" has been designed for the central portion of the site that is a minimum of 300,000 square feet and incorporates a public gathering area, three restaurants and a cinema. The existing topography of the site includes steep slopes on the northern wooded portions. Significant re-grading is required to support a safe design of the "main street" and center access from Watkins Centre Parkway to Route 288 and Midlothian Turnpike with the VDOT approved maximum elevation transition.

DOCUMENT B

The outline below summarizes those measures submitted as part of the WQIA for the mitigation of the encroachment and water quality improvement.

The following is a list of measures to provide mitigation for the proposed encroachments to the RPA. These measures, both structural and non-structural BMPs, will provide additional stormwater (non-point source) treatment and water quality improvements. In addition, the remaining environmental features will be protected both during construction, by maintaining erosion and sediment control standards, and after construction, by increased buffers and preventing down stream erosion.

The following will be implemented into the site Plan of Development:

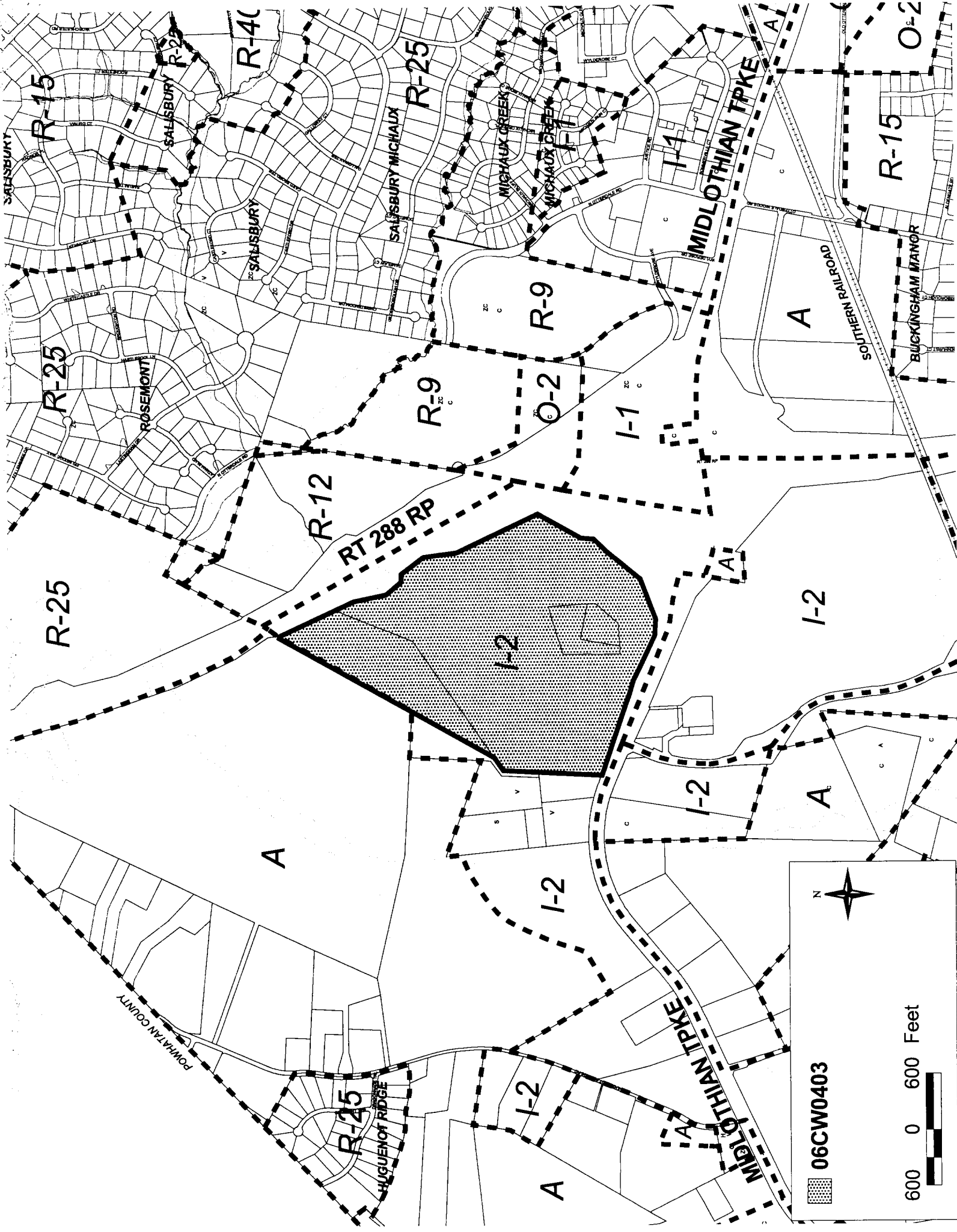
1. Erosion and sediment control standards of the county will be maintained during all phases of the construction process. The phased approach will consist of eight tasks, which are outlined on pages 7 to 13 of the WQIA, providing additional protection for undisturbed environmental resources during construction.
2. Reforested Areas covering 8.13 acres will be established adjacent to the undisturbed RPA buffer to increase natural infiltration, which acts as an additional environmental resource protection measure and stormwater treatment.
3. Structural BMPs will be used onsite to pre-treat any non-point source pollution before it enters the undisturbed RPA. Hot spot pollution sources, including dumpsters, truck bays, and trash will also be addressed.

The following are additional mitigation measures to be put in place after construction to help to improve water quality and reduce stormwater contamination with respect to controls for the specific development:

4. Education Materials:
 - Educational signs illustrating and describing the benefits of the RPA and describing the treatment technology.
 - Development of a stormwater management information manual specific to onsite BMPs and program controls.
 - The shopping center website will include a page that details onsite stormwater management practices. The web page will also include information on how the onsite stormwater management practices improve the water quality of the James River as well as links to EPA and DEQ environmental education websites.
 - Onsite storm drains will be labeled informing the public not to dump pollutants into the storm sewer system.

5. Good Housekeeping Materials:

- Signage in English and Spanish will be placed on dumpsters and the back doors of all buildings and retail freight entrances detailing what is permitted and not permitted in dumpsters;
- Signs written in English and Spanish will be placed near all rooftop HVAC units.
- Oversized dumpsters will be provided at all restaurant locations.
- Trash receptacles will be placed near building entrances with cigarette receptacles included at the cinema.
- The property management will use environmentally friendly practices for landscape maintenance.
- The property management will implement a litter control program including weekly inspections of all dumpsters and trash receptacles.
- A maintenance manual will be developed for the stormwater treatment systems.



06CW0403



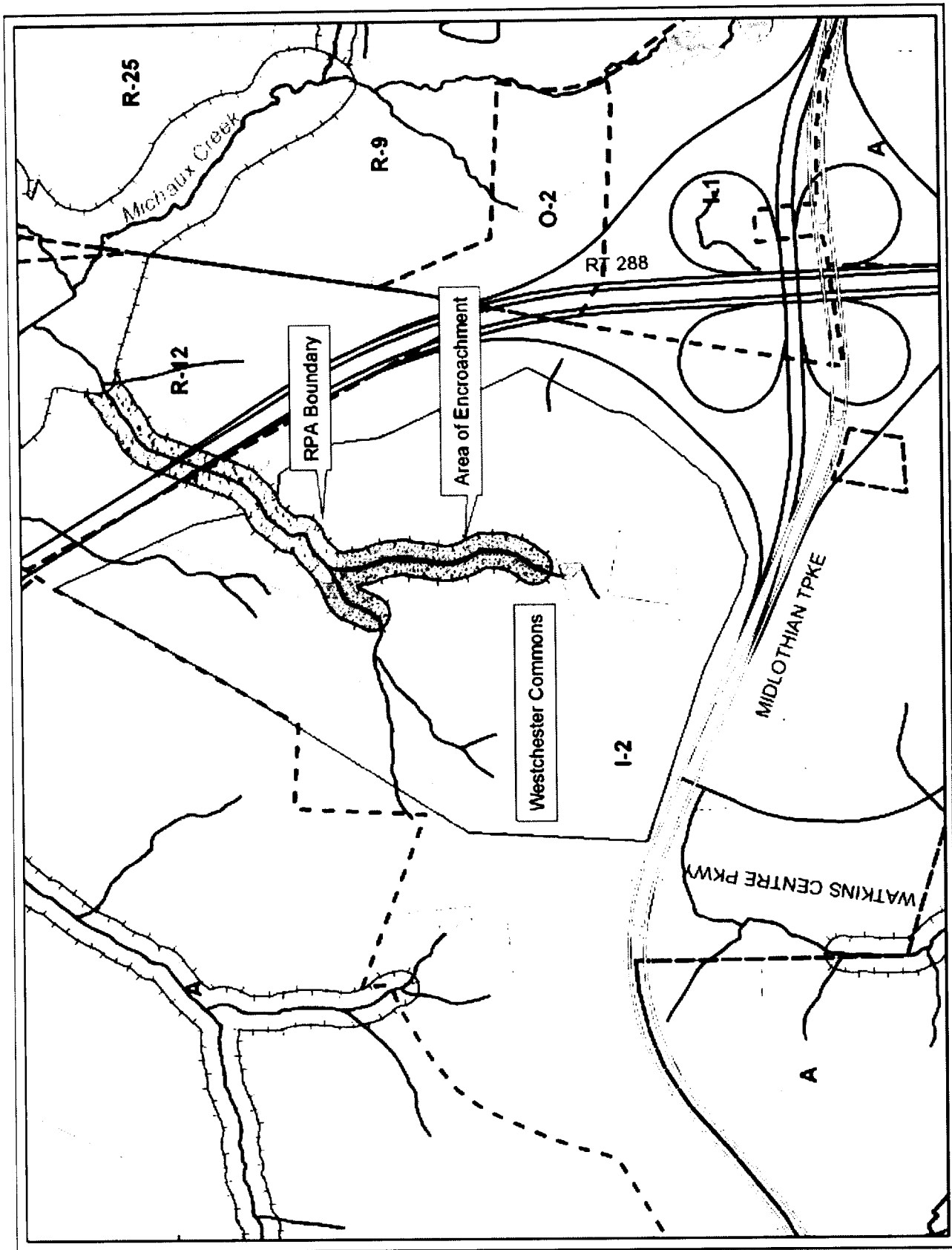


Westchester Commons CBPA Exemption

1 inch = 2000 feet

Case # 06CW043



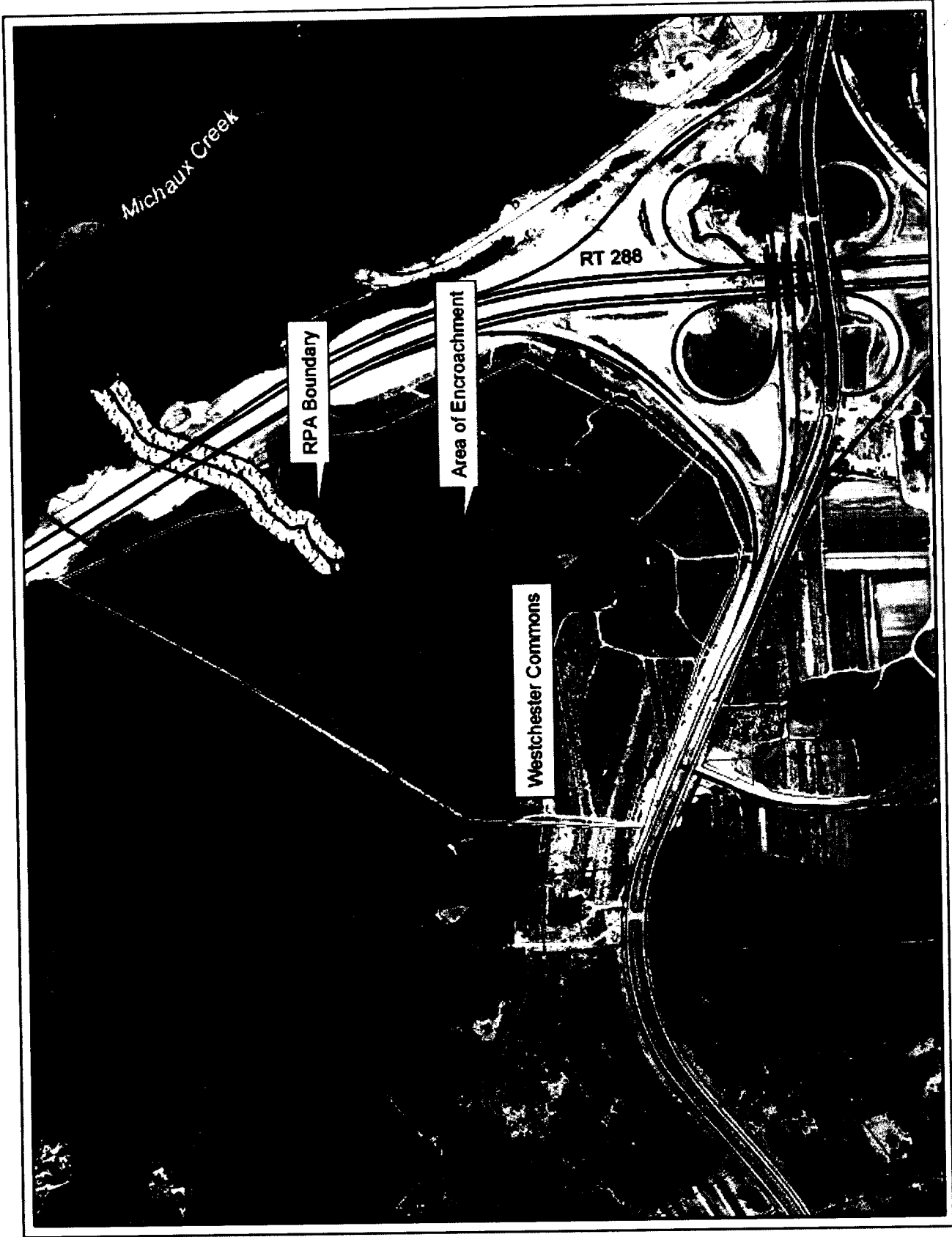


Westchester Commons CBPA Exemption

1 inch = 800 feet

Case # 06CW043





Westchester Commons CBPA Exemption

1 inch = 800 feet



Case # 06CW043

